

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Witness Statement

TESTIMONY OF
MAX MALAVANSKY, ADMINISTRATOR
CITY OF ST. GEORGE, ALASKA
BEFORE THE
SUBCOMMITTEE ON FISHERIES CONSERVATION,
WILDLIFE AND OCEANS
HOUSE COMMITTEE ON RESOURCES
JULY 29, 1999

Thank you for the invitation to the City of St. George, Alaska, to submit for the hearing record its comments on a draft bill ("the Draft Bill"), a proposed Pribilof Islands Transition Act. I am Max Malavansky, Administrator of the Alaska municipal corporation for St. George Island. The Mayor of the City is Alvin Merculief.

Our municipal corporation is a Second Class city, under the Alaska municipal code. Starting from the date of it's incorporation on September 13, 1983, and until my appointment as City Administrator this year, I was the elected Mayor of the City of St. George. My public service has included the entire period over which Congress phased out NOAA's Pribilof Islands Program (so-called "phaseout"), as directed by the Fur Seal Act Amendments of 1983 (FSA). I also served as an Advisor to the St. George Island Trust, created by that Act to hold impact aid for the Pribilof Island communities during the phaseout. In 1995, the City participated in the passage of legislation which authorized the an Islands environmental cleanup and phaseout claims process which would be resolved by the Draft Bill. Section 3 of Public Law (P.L.) 104-91 (1996).

COMMENT ON THE DRAFT BILL

While not in the form of a Native claims settlement bill, the Draft Bill would fund, or settle, some measure of the claims which were filed before the Congress in 1996, pursuant to a claims decision process in Section 3 (c) of P. L. 104-91. After NOAA executes the directives of the Draft Bill and the Two-Party Agreement, the Draft Bill would terminate some of the statutory rights of St. George Islanders. In return, the Draft Bill would terminate certain statutory obligations of NOAA to people of the Pribilof Islands. The Draft Bill

would define and shift to the State of Alaska NOAA's present obligation to contract for construction of new landfills on the Islands.

Our comments on the Draft Bill are in Attachment A. We commend your Staff for a job well done. While many of those comments are technical, the City will start by mentioning two parts of the Draft Bill we cannot support, and then explain why we oppose the Draft Bill's method of disbursing a Native claims settlement through a discretionary economic development grant program administered by NOAA, with no division of the settlement between the two Pribilof Islands.

The City has never viewed this claims process as a way Congress can create a future economic development fund for the Pribilof Islands. While having a positive economic effect, funding disbursed locally pursuant to the legislation before you, which is likely to flow to St. George Island, simply is not sufficient even to reimburse St. George entities for the expenditures they made, collectively, to subsidize the burdens NOAA passed to them during the phaseout. Much less is that settlement going to be sufficient to upgrade former NOAA properties and finish a fully functional Harbor. This is about getting our money back; not about NOAA funding Wal-Marts on the Pribilofs.

Since the phaseout began, among the three corporate entities representing the Aleut Natives of St. George Island it has been the municipal corporation that has carried by far the greatest burdens, both management and financial, of building the St. George community and Harbor, and of keeping them and our Island economy running. Probably more than any entity on either of the Pribilof Islands, it is the municipal corporation for St. George, and therefore the services it provides to the community and the Nation, that will be crippled the most severely if it's claims under P. L. 104-91 are not fairly compensated.

We maintain the basic public health and human needs systems of the community, all of which NOAA conveyed to us in dilapidated condition. The City is the major employer and construction entity on the Island. We own and maintain two water collection, storage and distribution systems, two sewer collection and outfall systems, and the electrical generation and distribution system. We maintain the roads and remove the snow. We maintain the State-owned airport, under a maintenance contract which does not cover our costs, therefor subsidizing that operation. We own and maintain three docks at the Harbor. Such as it is, we maintain the sanitary landfill. To our knowledge, and unlike the City of St. Paul, we are the only City in the State that is responsible for maintaining it's Harbor breakwaters.

In all, the City should be seen as the vehicle whereby, through this bill, Congress can do the most good for the economy and the people of St. George Island. Yet, the Draft Bill provides that only the costs of (1) past code upgrades made to transferred NOAA properties, and (2) of future "economic development" projects, can be funded by the Draft Bill. **The Draft Bill does not explicitly make the City eligible to undertake the community's most pressing infrastructure needs. Nor does the Bill explicitly allow the City to recover it's net worth, which was taken by the Federal and State Government's to fund the Harbor construction; a Harbor which *they* promised to complete. We ask that the Bill be amended explicitly to permit recovery of these two categories of City claims.**

This settlement leaves a lot on the table. Your questions do not ask for information by which the public could learn just how much cost shifting NOAA has imposed on the State and local governments, under this base closure and property transfer scheme. Please be advised the City has expended **\$8.2 million** of public debt proceeds and asset transfers for St. George Harbor construction. In our 1996 claims filing, we itemized the elements of work we then felt would be necessary in the future to complete the type of fully functional harbor on St. George which Congress funded on St. Paul Island [restated in item G of Att. B]. It is our

current estimate that those works remaining to be accomplished today would cost **\$29.98 million**.

[Attachment B](#) itemizes our 1996 guesstimate [see item M] that **\$17.76 million** would be required in the future to repair, replace, or remove, the degraded municipal property, facilities, and functions, which NOAA transferred to the City of St. George. An additional **\$4 million** will be required to execute NOAA's present legal obligation to design, permit, and construct a new sanitary landfill, and to recover the City's unreimbursed costs incurred in executing NOAA's current legal obligation to close the existing St. George sanitary landfill.

Now to our opposition to the proposal to settle the City's claims through a discretionary NOAA grant program. A review of how our P.L. 104-91 claims arose is necessary to understand that position. Because space limitations prohibit it, we will abbreviate the much more detailed history of St. George Island which the City included in the P.L. 104-91 claims document it filed before your Committee in October of 1996.

While the motivation of some for phasing out the 130 year Federal Pribilof Islands Program was primarily budgetary, and of others to terminate the St. George Island community altogether, the Alaska Congressional Delegation and this Subcommittee, in 1983 and since, have seen to it that the phaseout realized several, farsighted national economic and social benefits:

1. create a boat harbor on St. George, as a new platform for safe and quick access by fishermen to the world's richest fisheries, some of which are under-exploited;
2. conserve the fur seals and the world famous Bird Cliffs of the Pribilof Islands by creating an economy on the Islands which would reduce or eliminate the reliance of the Aleut Native residents upon employment by NOAA in a commercial fur sealing and rookery management program;
3. transfer or defer demands on the Federal Treasury for upgrading and maintaining Federal property, and for Federal management of the fur seal herds and rookeries -- demands which the U. S. Treasury by 1983 was only partially meeting;
4. clear up Alaska Native entitlements to land conveyances, granted by the Alaska Native Claims Settlement Act (ANCSA);
5. reject the discredited Federal Indian policy practice of "termination," a practice which NOAA was pursuing against the Aleut Native community of St. George Island.

After 15 years, Congress has received nearly all the benefits of the FSA it foresaw from St. George Island. However, acting as Trustor, NOAA got you there by under-funding the phaseout, then borrowing prodigiously the financial assets and manpower of the Island and the State. To make matters far worse, NOAA also conveyed to Alaska Native stakeholders, with its property titles, numerous costly property upgrade burdens, and other liabilities. Those liabilities have come due. In fact, Federal repayment is long overdue.

Congress funded the phaseout with an \$8 million St. George Island Trust. The Trust was intended to subsidize local entities to conduct former NOAA Program functions on St. George Island for four years, while the State built a boat harbor and NOAA conveyed Federal lands and property improvements to the Island's Alaska Natives entities of St. George Island. Throughout the phaseout, the City cooperated with the Traditional Council of St. George and the St. George Tanaq Corporation (the FSA refers to the three

corporations as the "entities") in executing the following functions which the FSA assigned to them:

- A. municipal operations, public works, fuel supply, maintaining Federal property improvements, and public accommodations;
- B. employers and Federal pension providers of NOAA's former employees;
- C. health and human disaster assistance needs of the Island residents; and
- D. created a fisheries-based economy for the Island, funding privately a large part of the construction and operating costs of the St. George Boat Harbor and fuel farm.

Property Transfers

In 1983, the problems Congress faced in removing NOAA from management and land holdings on St. George Island can be compared to those Congress faces when closing a military base in a town dominated by civilian employment by the military. A study contracted by the State Department of Transportation in 1982 documented that virtually every property improvement, municipal service and facility, and homesite, which the Federal Government built or installed on St. George Island was either out of code, unsafe, and/or functionally marginal to useless. [\[4\]](#) For example, the City inherited electric generator engines which were obsolete when installed, an electrical transmission system with 17 amps to ground, and a community with no household fresh water, rotten Island fuel storage tanks, and raw sewage discharging on the beaches.

But, a number of the statutory safeguards which are standard today in military base construction codes and base land transfer legislation were not observed by NOAA or imposed by Congress within the Federal property construction, maintenance, and conveyance authorities of NOAA, and in the FSA. The impact of this ill-planned withdrawal fell upon Native Americans, raising environmental justice concerns.

In 1983, Congress and NOAA rejected explicit demands, made by ourselves and the State of Alaska before this Subcommittee, that NOAA-owned property deficiencies be corrected prior to their conveyance pursuant to the FSA. But, for reasons more fully explained by other testimony on the Draft Bill, and in our claims filing before this Committee in 1996, Congress underfunded the phaseout. This was widely known and publicized in the national press at the time.

The amount NOAA put into the two Pribilof Islands Trusts was arrived at by multiplying \$5 million dollars per annum -- slightly less per annum than the level at which the Pribilof Islands Program had been funded -- times the number of years [4] it expected the State would take to construct boat harbors on both Islands. No money was included in the Trusts for property upgrades or environmental remediation. Separately, Congress did appropriate to NOAA its 1984 Program budget request and, in a FY 1983 Supplemental appropriation, \$2 million for emergency property upgrades. Based upon NOAA's Williams Kubelbeck Study and NOAA testimony before this Committee in 1983, Congress appears to have assumed that NOAA would come forward to Congress for funding our property upgrades, if and when the viability of the new Harbors was established.

Of course, we were forced to maintain the dilapidated properties we received, but the costs were considerable. We replaced or upgraded former NOAA facilities where capital investments no longer could not be deferred. In some cases, this was done at our expense, and in others with State and Federal grants. However, most of the upgrading of municipal property remains to be accomplished. Beyond the environmental cleanup imposed on NOAA by the State of Alaska, and our portion of the FY 1983 Supplemental appropriation, NOAA has not reimbursed or undertaken the property upgrade liabilities which it shifted with Federal property titles to St. George's Aleut Native entities and individual property owners.

Boat Harbor

When NOAA and the State evaluated the future of St. George Island between 1979 and 1982, there was no boat harbor, an uncertifiable airstrip (an Island road), and no alternative employment source to Federal fur sealing and fur seal rookery protection. The Government literally had not permitted Aleuts to go to sea, yet shut down commercial fur sealing on St. George Island in 1972.

In a Memorandum of Intent, NOAA promised our Island that it would finish the Boat Harbor if the State of Alaska did not. It was perfectly obvious to all that construction of a boat harbor was a must, if the St. George community was not effectively to be "terminated," in the worst sense that term was understood in Federal Indian Policy.

The State did stop construction of the boat harbor in 1986, sending St. George Island into economic and social collapse. NOAA did nothing; it broke its promise and did not treat us fairly.

The City had to become the NOAA's banker. This was a commitment which NOAA and the State left us no choice but to make; the gun of community survival was at our heads. Over the next six years, the City raised and transferred \$ 8.2 million in short and long term debt proceeds and construction equipment, as it's one-half share of the costs of a U. S. Army Corps of Engineers' "Section 107" cost sharing contract. Pursuant to that contract, and using our money, the Corps was to redesign and complete the harbor and harbor channel dredging to design depth, using contractors it alone supervised. The St. George Tanaq Corporation had to borrow funds to replace NOAA's dilapidated Island fuel tanks.

The Corps later suffered to occur a cost overrun, which was reduced to a \$1.1 million judgment for its first contractor, McAmis. The Treasury paid and referred that judgment debt to the City for reimbursement. Under the Federal Debt Collection Act, that claim against the City would be set off against any aggregate distribution Congress awards our community in this bill. **We ask that the bill bar administrative offset of alleged debts owing the Government against settlement awards made by this bill.**

In 1983, no one, NOAA and Congress included, ever dreamed that local entities we would have to make that kind of social and economic sacrifice. In all, the City has diverted all its net worth and borrowing capacity, and has diverted or will divert all its harbor rental and service income for the foreseeable future, to pay the remaining principal and interest due on bonded debt; debt incurred for a Harbor the net financial benefits of which flow mainly to outside fishermen and the State and Federal treasuries. The effect of this massive transfer of City assets and income has been to disable the municipal government from undertaking all but the most unavoidable municipal works and services.

However, much has been accomplished and the Harbor is in operation. **Since 1991, the St. George Harbor has developed \$2.73 million in fish taxes alone for the State Treasury, and likely as much or more in Federal income taxes for the Federal Treasury.** The CDQ group which includes St. George as a minority

partner, APICDA, financed and built a docking facility at the Harbor, and a sewer outfall. However, the entrance channel to the Harbor has not been excavated completely to design depth, so the channel is not Federally certified. As we could not afford it, the State legislature just funded the local match necessary for the Corps to complete the entrance channel to design depth and certify the Harbor channel.

Thus did the State and local entities bankroll NOAA, and an asset providing almost all the fleet safety, operating efficiency, and onshore processing and basing benefits, to the Nation which Congress sought in 1983.

Implications For the Grant Approach

The financial recoveries and specific performance remedies which the Pribilof Islanders seek ought not to be deferred to a long, drawn out process wherein NOAA determines *whether we get our money back or we have proposed a credible economic plan*. These claims are already long overdue. We and NOAA just want closure.

In light of the time and the ordeal we have endured to get here, a NOAA grant program for settling our claims would just not be fair. The City started borrowing money in 1988. Since 1991, we have been seeking relief from NOAA and Congress from the adverse financial effects which the phaseout had on the three entities for St. George Island. NOAA denied us at every turn. We started by trying to negotiate with NOAA. They demanded we finance their cleanup obligations by "contribution." As negotiations proved fruitless, the State started an enforcement action against NOAA, seeking to force it to conduct an environmental cleanup of our properties. That State action was settled in a document concluded in 1995 and signed finally in 1996, commonly referred to as the "Two-Party Agreement."

Though we are the stakeholders, NOAA nonetheless insisted we be excluded from that settlement. Therefore, we were denied it's procedural and compensation benefits, and the ability to determine the scope of the cleanup. The Two-Party Agreement fell far short of compensating our environmental cleanup and public safety claims, and did not address at all our requests for phaseout-related financial cost recovery or specific performance.

We sought, and, in 1996 the President signed, P. L. 104-91. Section 3 of that law provides special rights for Pribilof entities in and to a NOAA environmental cleanup and public safety upgrade program which is broader than that which was provided by the Two-Party Agreement. Over NOAA's objection, this Committee voted the precise language of Section 3 which was enacted, rejecting, among other things, NOAA's request for local cost sharing ("contribution") requirements.⁽²⁾

But NOAA has ignored Section 3, so that claims relief was delayed another three years. NOAA simply refused to implement the cleanup and upgrade program of Section 3 (a) of P. L. 104-91. A three year, \$ 30 million authorization of appropriations for that purpose lapsed unused in FY 1998. There is nothing else in P.L. 104-91 which NOAA observes, including it's local preference provision. Grant programs promising claims relief have been proven ineffective in NOAA's hands.

In 1996, we incurred great expense and expended much effort assembling and filing before this Committee the specific categories of claims which were authorized by that statute. NOAA filed before your Committee a Report denying legal responsibility for the basis of every claim filed by the Pribilof entities, and expressing only negative opinions on the equity of the claims. It would not reimburse us for the reasonable

and necessary costs of assembling and submitting the claims.

On May 13, 1997, the City wrote to Chairman Young requesting that the Committee undertake enactment of claims settlement legislation, and commenting on NOAA's Report. On April 9, 1998, your Subcommittee proposed draft settlement legislation, upon which the City commented, by letter dated May 19, 1998. Because those letters contain much of relevance to the Draft Bill before us, we hereby incorporate it by reference as if set forth herein.

The foregoing history of delayed satisfaction of our phaseout claims, and of Congress' rejection of further delaying devices in P. L. 104-91, suggest it is unfair to delay further a real claims settlement by means of a new NOAA grant program.

Our principal objection to NOAA as the arbiter of our claims is it already has rejected them, and has always demonstrated prejudice against the phaseout-related claims of the St. George community. NOAA therefor cannot fairly be allowed by Congress to judge these claims. Based on a totally inaccurate appraisal of the status of the economy and the Harbor on St. George, NOAA stated in it's 1997 Report that further NOAA funding of St. George Island was not warranted. NOAA also rejected all our claims. **Therefor, a grant program which allows that agency, in particular, to judge *whether and when* St. George Island entities (1) should be reimbursed for funds taken from them, (2) whether any other of their P. L. 104-91 claims will be settled, or (3) whether there will be economic development projects approved for St. George, is totally unacceptable to us.**

Furthermore, the history of our involvement with NOAA in the Two-Party Agreement grant program establishes the fact that the proposal vesting in NOAA a new Pribilof Islands grant program would not be good government. NOAA's track record complying with Pribilof claims relief is not good.

As noted above, NOAA simply has ignored the dictates of Section 3 (a) of P. L. 104-91. Since 1995, when Congressional funding was first available for phaseout-related environmental cleanup projects for St. George Island, our dealings with NOAA grants personnel has been generally delay-prone and unsatisfactory. NOAA's delays in compliance with the Two-Party Agreement these past two years lead the State to impose penalties. NOAA disallowed reasonable and necessary cost reimbursement requests we submitted on grant applications to remediate the schoolyard and close the sanitary landfill. There was mobilization cost-escalation due to NOAA delays in grant administration. These NOAA practices effectively have forced the City to share the costs of NOAA's compliance with the Two-Party Agreement. Subsection 3 (b)(5) of Public Law 104-91 forbids NOAA demands for local cost sharing.

Why NOAA as the administrator of the program? NOAA admits it lacks the expertise and direction to implement even the Two-Party Agreement: at long last, NOAA recently threw up it's hands and hired a new compliance contractor. More generally, NOAA denies it has the expertise or capacity to evaluate, define, or promote "economic development" on St. George Island, or any community. NOAA has demonstrated for nine years now that it really wants nothing to do with us.

Finally, vesting in NOAA a new Pribilof Islands grant program would not be wise Congressional fiscal policy. Congress has been unable to hold NOAA accountable for the \$20+ million which it appropriated to NOAA over the period 1994 - 1998 for compliance with the Two-Party Agreement. It is not even clear whether all the funding which Congress has appropriated to date will be sufficient for NOAA to comply fully with the Two-Party Agreement.

With respect, an immediate *Congressional* determination of our claims and real funding thereof is long overdue. If NOAA must be vested with disbursement authority over the funds appropriated pursuant to the Draft Bill, we respectfully request that Congress make that action entirely ministerial, and require that the funds be placed in escrow.

Division of the Settlement Between the Two Pribilof Islands, And Among the St. George Entities

We ask that Congress make a statutory division between the two Pribilof Islands of 50% of both the proposed \$24 million claims settlement and the \$8 million new landfill construction appropriations. For reasons set forth in Attachment A, we also ask that the bill's authority for appropriations not be limited to specific appropriation years.

With such a split, Congress would start to rebalance the preferences which Congress has provided to St. Paul Island throughout and after the phaseout. Our claims justifying recovery of at least half of the appropriations authorized by the Draft Bill have been fully briefed in documents filed before this Committee.

Our Island's entitlement to funds having been defined by Congress in the bill, the three entities for St. George can agree, better than NOAA could decide, how our that settlement should be divided among the entities for St. George Island and used to do the most good for our economy and people. *The same may not be so for St. Paul Island entities, and you may wish to adopt a different statutory procedure for dividing among the entities for that Island the settlement amount allocated to St. Paul Island.*

Unless the settlement amounts for each Island are set by statute, gross injustice will be done to the community of St. George Island. Having already received far greater Federal and State subsidies than St. George during the phaseout (most significantly, larger CDQ allocations, two Federal harbor project appropriations, timely State harbor cost match pledges to the Corps, and an amortization-free Federal loan for their fuel farm), the St. Paul Harbor went into service sooner, and is bigger. Perversely, for several years when the City could not raise the \$430,000 local match required for the Corps' completion of its 1988 Harbor Project design, the *State* refused to help us but did fund the multimillion dollar local match required for St. Paul's harbor project.

Moreover, on a relative scale, much more revenue was taken from the St. George entities to subsidize the Federal Government's phaseout than was the case on St. Paul. And potential revenues of the St. George Harbor have been lost because it still is not fully functional. Congress decided to accept underfunding of our Harbor, and then to allow the Corps to drag out, even to this day, its completion of the original harbor design. And that design is not a fully functional St. George Harbor.

State and Federal phaseout investments, and the timing thereof, have left St. Paul entities and their Harbor in much better shape than are the case on St. George. If Congress refuses to give our money back but permits elastic, vague criteria such as "economic development" to determine grants of that money by an agency of the Federal Government, St. Paul likely could and would take all the grant money made available pursuant to the Draft Bill. Our economy simply isn't as successful as St. Paul's, yet.

Finally, our experience is that any new Federal grant program authority gives NOAA flexibility to do mischief with the money, and that it will. It can and will subordinate the legitimate and more pressing reimbursement claims and property upgrade requirements of St. George entities to uses such as: NOAA's program overhead; funding the Government's own proprietary needs, such as debt collection, land

exchanges, cost shifting, and Two-Party Agreement penalties and compliance; collecting contribution.

QUESTIONS FROM THE SUBCOMMITTEE

1. Cleanup Necessary, Beyond The Two-Party Agreement.

Your letter to the City dated July 6, 1999, asked that we identify what other environmental cleanup work the City has asked or intends to ask NOAA to complete. Subsection 3 (c) of P.L. 104-91 directed local entities to submit to Congress claims identifying for their respective properties the cleanup and safety upgrade actions they wanted NOAA to fund, and that were not provided for in the Two-Party Agreement. The City filed such claims, which appear in Appendix B to this testimony. While some of these items may overlap claims of other St. George entities, while others may prove not to be required, we have nothing to add to that list, which includes:

1. A fully equipped new landfill, including operating equipment and facilities;
2. Remove or line the dumpsite under the ball field;
3. Home heating tank contamination;
4. Remediate, as necessary, the Coast Guard site at Upper Lake;
5. Investigate and, if necessary, remediate the cemetery quonset house;
6. Reclaim East Pit site.

2. Federal Funds Received Since 1983

A. We have been able to locate records of the following disbursements to the City from the St. George Trust Fund: \$ 2,204,820, as follows: \$ 471,205 in 1984, \$ 534,943 in 1985, \$ 252,000 in 1987, and \$ 946,672 in 1992.

B. For Subsistence.

The City has not received funding for subsistence harvest of fur seals.

However, as loosely defined, the community received other Federal funds to "subsist" during the phaseout crisis on St. George Island. In 1987, the St. George Island community fell into a crisis because the State stopped construction of the boat harbor. Accordingly, Public Law 100-71, 102 Stat. 4772 (1988), amended the FSA to authorize to be appropriated to the St. George and St. Paul Island Trusts the sum of \$3,700,000.

Public Law 101-512, 104 Stat. 1931 (1990), further amended the FSA to authorize to be appropriated to the Department of *the Interior*, for transfer to the St. George and St. Paul Trusts, the sum of \$3,500,000, "for the purpose of preserving and maintaining municipal, community, and tribal functions while an economy not dependent on sealing is established."

Public Law 102-381, 106 Stat. 1391 (1992), appropriated the sum of \$500,000 to the *Bureau of Indian Affairs*, for transfer to the St. George Trust for the same purposes.

We have been unable in the time available to locate records sufficient to assure this Subcommittee as to how much of those appropriations came to St. George Island and, of that, to which entity, in what amounts, and for what uses, all of those crisis appropriations were disbursed.

C. To Upgrade, Repair, Or Replace Facilities Or Equipment Formerly Owned By The Federal Government

1. Starting in 1984, the City received from NOAA \$1 million of the emergency funding which had been provided by the FY 1983 Supplemental Appropriations bill. With those funds, among other things, the City -

- a. rehabilitated the freight crane and bidars,
- b. consolidated operations of the unsafe Electrical/Plumbing and Machine Shops into an existing facility, which was rehabilitated,
- c. replaced the power plant roof and purchased a new generator and switch gear, replacing a used generator which had been installed just before phaseout, but which did not work,
- d. built a rolling equipment storage building,
- e. made various major code upgrades to buildings, and
- f. extended the airport runway.

2. The City obtained from the St. George Traditional Council and expended \$280,000, which the Council in turn had obtained by grant from HUD, to provide home electric service and to upgrade electrical distribution systems.

3. In 1994, the City received a \$ 670,544 NOAA grant to reclaim the dumpsite under the schoolyard.

4. In 1997, the City received a \$1,738,358 NOAA grant to design and implement a closure of the St. George sanitary landfill which NOAA is required to accomplish by the Two-Party Agreement. This grant has been suspended while NOAA deals with the State over a new landfill.

D. For Economic Development and Facilities Construction

Other than that mentioned in Parts C and E, the City has received no Federal funds for these purposes.

E. To Plan, Design, And Construct Harbors And Harbor Related Facilities

In 1988, the City entered into a "Section 107" contract with the U. S. Army Corps of Engineers for the design and construction of the Corps' St. George Harbor Project. The Corps contributed \$4 million.

The Corps' FY 1992 appropriation act allocated \$3 million more toward the Corps' 50 % match for the Project, which remains incomplete.

3. Expenditures The City Made To Upgrade, Repair, Or Replace Former Federal Facilities

In light of question 2, we assume this question asks the City what expenditures were made but were not

reimbursed by Federal or State agencies. Also, the question is taken to include only capital items, rather than operation or maintenance expenses. We did not feel it was appropriate to file claims for outlays made for purposes you ask about here if they were reimbursed by grants from other levels of Government. We recommend that other entity responses to the Subcommittee's questions be examined closely in this regard, as you did not ask that question and few entities on either Island had any internal resources to commit to any phaseout related burden they here claim to have paid for.

Note that while operation and maintenance expenses on former Federal properties were severe, comparatively little *upgrading* of former Federal facilities was undertaken on City land, unless it was reimbursed by Federal or State grants. The City simply did not have the internal revenue sources to accomplish capital improvements for NOAA, and Congress did not appropriate such funding. During the phaseout, and until the Harbor opened in 1991, the City had no net income from City utilities, and only meager tax or State transfer payment income, with which to operate. The City uses most of the sales tax, fisheries tax revenue sharing, and harbor rents and services fee, receipts to pay the bonds incurred to subsidize the Corps' Harbor Project.

In its claims filed under Section 3 (c) of P. L. 104-91, the City revealed that the out-of-pocket and unreimbursed expenditures which it has obligated over the years, to upgrade the capital value of former Federal real property and rolling stock and other Federal personalty transferred, was **\$1,194,000. In 1996, the present value of those outlays was \$ 3,058,620.**

4. Which of the City's Claims Results Directly From The Failure Of The Harbor To be Completed In A Timely Manner, Or From The Need To Upgrade, Repair, Or Replace, Facilities And Equipment Formerly Owned By The Federal Government?

A. Claims Arising From A Failure of the State and The Corps To Complete The Harbor In A Timely Manner

The Williams Kubelbeck Study assumed the State would complete the St. George Harbor in 1988. The State stopped construction in 1986, and the Harbor did not open until 1991. The City had to commit its meager income to fund 50% of the remaining costs of the Harbor, and other crisis demands. Therefore, the City's ability to use municipal revenue to defray the community costs which the FSA assigned to the City, and the Trust's ability to fund anything but community survival, evaporated in 1986. Some of those individual and entity costs were recovered through the 1988, 1990, and 1992, Pribilof disaster relief appropriations, but not the Harbor costs.

Our claim to recover actual the City government's capital investment in the harbor is \$8.2 million.

We also filed claims for millions of dollars in interest paid and payable on that debt, which has been drained out of this community, and for the present value of the lost opportunity capital those payments represent. We claimed for recovery of our applied management time and expenses, quantified at reasonable rates. We also asked Congress to provide that the Corps waive or pay the McAmis cost overrun judgment and 100% of any future cost overruns it incurs completing the Harbor Project.

B. Claims Arising From A Need To Upgrade, Repair, Or Replace, Facilities And Equipment Formerly Owned By The Federal Government.

In addition to claims covered by question 3, above, State-default-related claims included a City request that Congress waive the remaining City payments which are due to NOAA on a 1984 fuel supply debt on which

we went into default during the crisis.

We conclude by noting that the City did not attempt to quantify and make a claim for the losses of potential revenues which our community could have received from the private sector and State tax sharing had the St. George Boat Harbor been opened and fully functional in 1989, as NOAA planned, down to the present. The Corps has expended to date less than the \$7 million which Congress has committed for the St. George Harbor Project, and the Corps has designed and left the entrance channel in an unsafe condition in heavy weather. Nor does the Corps Project provide us a fully functional boat harbor.

There is no question that Congress has caused all involved with the St. George Boat Harbor -- the entities, the State, and the Federal Treasury -- to lose considerable fisheries-related revenues by the comparatively paltry funding and delay it has countenanced in the completion of the Corps' Harbor design. By its lavish subsidy of the St. Paul Harbor and fuel farm early on, Congress long ago effectively gave that community new revenue streams which place it in much stronger financial condition today.

This concludes our prepared testimony. We are privileged to be asked to submit it.

Attachment A: Comments on the Bill

[Attachment B](#): Spreadsheet of Claims

1. "Pribilof Special Report of Federally Owned Facilities," State of Alaska Department of Transportation and Public Facilities (March 19, 1982). The State did not survey old facilities so run down that rehabilitation would not be appropriate. But it surveyed the condition and code compliance of the Federal facilities on St. George and St. Paul Islands and estimated that rehab costs (1982 dollars) at \$3.7 million, demolition costs for hazardous or structurally unsound buildings at \$3.0 million, and replacement costs for demolished buildings in excess of \$15 million.

2. Additionally, in Section 3 of P. L. 104-91, Congress rejected NOAA's efforts to defer settlement of our phaseout-related financial and specific performance claims to litigation. And, Congress rejected the idea that NOAA should adjudicate our claims. Instead, it enacted a process by which we would submit claims to Congress, upon which NOAA would comment, and Congress *itself* would settle them. Section 3 (c) of P. L. 104-91 (1996). This is similar to the course Congress followed in ANCSA and ANILCA.

#